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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,479	03/02/2004	Masami Maeda	81940.0073	2092
26021	7590	01/30/2006	EXAMINER	
HOGAN & HARTSON L.L.P. 500 S. GRAND AVENUE SUITE 1900 LOS ANGELES, CA 90071-2611			PORTKA, GARY J	
			ART UNIT	PAPER NUMBER
			2188	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,479

Applicant(s)

MAEDA ET AL

Examiner

Gary J. Portka

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-18, and 20 is/are rejected.
- 7) ☒ Claim(s) 7-10 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/2/04, 4/19/05, 6/1</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are presented for examination.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on March 2, 2004, April 19, 2005, and June 10, 2005 were considered.

Claim Objections

3. Claim 16 is objected to because of the following informalities: At line 2, "a user face interface" appears to require deletion of "face". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 2-6, 11-13, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of these claims or one from which they depend recite "the number of (x) in use is equal to or greater than the number of (x) available for use", where (x) varies among claims. It is not clear how a number in use of something may be greater than the number of them available. As an example, it is not clear how if there are 4 ports available for use, that 5 ports could be in use. Since this appears to be impossible, the meanings of the phrases "in use" and "available for use" must not be clear and thus are not understood.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 6, 14, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Dickenson, US 2004/0025052 A1.

7. As to claims 1 and 17, Dickenson discloses the recited disk array and method with plurality of disk drives, channel control section with plurality of ports connected to information processing devices, disk control section connected to the drives (see Figs. 2 and 3), and shared memory accessible by the channel control section and disk control section which stores a port control table that sets control information indicating whether the ports are permitted for use, and the channel control section refers to that information and determines whether to respond to a connection request from a processing device (see Figs. 3-5, paras. 177-180 and 182, and TABLE 1 pgs. 9-10).

8. As to claim 6, in Dickenson the information regarding number of paths is available from the tables and is used as recited (see previously cited paras., note last sentence of both 178 and 179).

9. As to claim 14, Dickenson discloses management terminal with interface that sets the table information as recited (at primary access port AP0, see previously cited paras.).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickenson, US 2004/0025052 A1, in view of Doshi et al., US 2005/0102448 A1.

12. As to claims 15 and 16, Dickenson discloses the invention substantially as described above with regard to claim 1. Dickenson does not disclose that the port table includes port usage rate, and informing the management terminal if any port exceeds their threshold. However, Doshi discloses a method for controlling the flow of data through multiple ports by keeping track of the port usage rates compared to an average (see Figs. 1-3, paras. 10-12). The data of the port rates may be considered the teaching of the recited information in a table. Since the method responds to a port that exceeds a threshold by controlling the port, this is the same as informing the management terminal for Dickenson, which controls the system. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to add port usage rate to the table and inform the management terminal if it is exceeded, because it was known that this would more efficiently use resources in a congested multiple port system (see Doshi, para. 4).

Allowable Subject Matter

13. Claims 7-10 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patent No:

2004/0194106	Device judging by address whether communication path is available.
6,877,044	Distributed storage with interconnected interface controllers.
6,850,997	Determination of available paths to a device.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary J. Portka whose telephone number is (571) 272-4211. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (571) 272-4210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gary J Portka
Primary Examiner
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January 19, 2006

A handwritten signature in black ink, reading "Gary J Portka". The signature is written in a cursive style with a long horizontal line extending from the end.

GARY PORTKA
PRIMARY EXAMINER